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In re Application of	:	
Wojtczak et al.	:	
Application No. 09/529,496	:	DECISION ON
PCT No.: PCT/US98/21807	:	
Int. Filing Date: 14 October 1998	:	PETITION UNDER
Priority Date: 14 October 1997	:	
Atty. Docket No.: 37577-0015	:	37 CFR 1.137(b)
For: Ammonium Borate Containing	:	
Compositions For Stripping Residues	:	
From Semiconductor Substrates	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 08 March 2001.

BACKGROUND

This international application was filed on 14 October 1998 and claimed earliest priority of an application filed on 14 October 1997. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 14 April 2000.

On 10 April 2000, applicants filed *inter alia* the basic national fee.

On 16 May 2000, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(e).

On 08 March 2001, applicants filed the instant petition.

On 26 March 2001, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the United States for failure to timely reply to the Notification of Missing Requirements of 16 May 2000.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section. The petition satisfies requirements (2), (3) and (4) but does not satisfy requirement (1).

Regarding requirement (1), the petition includes a fee authorization. Accordingly, the \$130.00 surcharge under 37 CFR 1.492(e) is being charged to counsel's deposit account no. 02-3964. However, the declaration accompanying the petition is not acceptable because it is not clear whether William Wojtczak signed a complete copy of the declaration, or if he merely signed "Page 2 of 2," a copy of which is attached to the declaration. Also, the declaration refers to international application PCT/US99/21807, rather than the correct international application number (PCT/US98/21807). As such, the required reply to the Notification of Missing Requirements, in the form of both the surcharge under 37 CFR 1.492(e) and an executed declaration in compliance with 37 CFR 1.497(a) and (b), has not been received. Applicants must submit either a single declaration executed by both inventors or separate complete declarations as executed by the individual inventors.

Regarding requirement (2), the petition includes a fee authorization. Accordingly, the \$1280.00 petition fee is being charged to counsel's deposit account no. 02-3964.

Regarding requirement (3), the petition includes a statement that "the entire delay in responding to the Notice of Missing Requirements and Notice of a Defective Oath or Declaration from the respective due dates until the filing of this petition was unintentional (as defined under 37 CFR 1.137(b)(3))." This statement is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)" No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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